

GMCB Rule 4.000, § 4.207(2) provides considerations to guide the Board's determination of the propriety of separating a project into components: (a) the structural interrelationship; (b) the financial interrelationship; (c) whether there is a single overall objective; and (d) the relative time frames. Based on the information provided by NVRH in the environment described by DMH, all four considerations support separating the MHSA from the ER/WW.

The MHSA is structurally separate from the ER/WW. The MHSA will be a newly constructed freestanding structure of 2,996 square feet and will connect to the existing Emergency Department by a corridor. Even if the ED/WW is never completed, the MHSA will be fully functional as an addition to the main hospital.

There is no financial interrelationship between the funding sources for the MHSA and the ED/WW. NVRH has is slated to receive \$3 million in federal funding to cover the MHSA project cost. The funds must be spent within three years of receipt. The ED/WW is not eligible for the federal funding and will instead be funded with cash reserves, philanthropic donations, and long-term debt.

The MHSA and ED/WW projects are intended to address two distinct, but overlapping, objectives. The primary objective of the MHSA is to provide a better environment for patients in mental crisis, especially those who would otherwise have to stay in the ED for an extended period time while waiting for placement in a more appropriate facility. The current ED configuration is not designed for or suitable for such long-term stays. In 2022 the average length of stay for patients with mental health symptoms was 27.7 hours. The ED clinical treatment rooms are 85 square feet and offer little privacy for meeting with family, counselors, or advocates. The primary objective of the ED/WW is to bring the overall ED and laboratory space into compliance with current guidelines. The renovation will improve the ED's layout and will increase the number of clinical treatment rooms to better facilitate confidentiality of communications between providers and patients and increase the opportunities for ED patients to go directly into a treatment room without having to remain in the waiting area for an extended period of time. It will also increase and improve laboratory space.

The MHSA will commence construction before the ED/WW. NVRH intends to begin MHSA construction in the Fall of 2022 and complete it by January 2024. NVRH plans to begin construction of the ED/WW a year later, in the Fall of 2023, and complete it by May 2026.

Given the impact of the COVID-19 pandemic on mental-health-related ED visits, the time restrictions of the federal funding, and NVRH's urgent need to increase and improve its mental health support area, we grant NVRH's request to treat the MHSA as a separate project. NVRH took a proactive approach in seeking a Board determination. The projects are structurally distinct, will be constructed on separate timelines, will receive funding from distinct and unrelated sources, and are intended to address distinguishable, if overlapping, health care concerns. In addition, the regulatory flexibility offered by Act 85 allows us to relax certain regulatory standards in response to the evolving needs related to the COVID-19 pandemic. In this situation, the ability for NVRH to benefit from federal funding and to expand mental health treatment within approximately 20 months meets Act 85's direction "to prioritize and maximize direct patient care [and] safeguard the stability of health care providers." 2022, No. 85, § 5(a).

Because the total project cost is \$2,856,287.00, including a 15% contingency, it falls below

the monetary jurisdictional threshold and is not subject to CON review. See 18 V.S.A. § 9434(b)(1), as revised by Certificate of Need Bulletin 004 (March 30, 2022). NVRH shall report to the Board when it receives confirmation that it has been officially awarded the federal funding and upon completion of the project to report the total amount dispersed.

As NVRH proceeds with developing and implementing this project, if there are any changes in type, scope, or cost of the Project, it is directed to contact the Board immediately so that we may determine whether any further process is necessary. Failure to do so as required by GMCB Rule 4.301(4) may result in sanctions, as specified in 18 V.S.A. § 9445.

SO ORDERED.

Dated: May 18, 2022 at Montpelier, Vermont

s/ Kevin Mullin, Chair)
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s/ Jessica Holmes)
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s/ Robin Lunge)
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s/ Tom Pelham)
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s/ Thom Walsh)

GREEN MOUNTAIN
CARE BOARD
OF VERMONT

Filed: May 18, 2022

Attest: /s/ Jean Stetter
Green Mountain Care Board
Administrative Services Director

NOTICE TO READERS: This document is subject to revision of technical errors. Readers are requested to notify the Board (by e-mail, telephone, or in writing) of any apparent errors, so that any necessary corrections may be made. (Email address: Abigail.Connolly@vermont.gov).